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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to SIERRA LEONE: comments by the State*

* Reproduced as received.

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I. Introduction

1. During its first-ever participation in the triple COPs of the Basel, Stockholm and Rotterdam Conventions in April-May 2017, the delegation of the Government of the Republic of Sierra Leone met with the United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and extended an invitation to visit to Sierra Leone to monitor and assess steps taken by the Government to protect the human rights implicated in the management of hazardous substances and wastes throughout their life cycle. This is consistent with the Government's standing open invitation to all UN Special Rapporteur mandates holders to visit Sierra Leone.

2. The first day of the Special Rapporteur's visit coincided with the infamous mudslide and flooding disaster in Freetown. Despite this sad event, the Government of the Republic of Sierra Leone was determined to proceed with the visit, noting that the country needed to engage in this assessment to ascertain its institutional capabilities and legal and policy framework for the protection of human rights vis-à-vis the environmentally sound management and disposal of hazardous substances and wastes. This visit was also necessary as it demonstrated the Government's high level of commitment to complying with its obligations under relevant international human rights instruments and multilateral environmental treaties.

3. The Government of the Republic of Sierra Leone was also motivated to invite the Special Rapporteur because the current mandate holder, since his appointment in 2014, had not conducted a study visit in any African country. Sierra Leone therefore set out to be the first African country to engage the current mandate holder to further highlight the concerns which African countries have always raised about the problems associated with hazardous substances and wastes, the majority of which, if not all, are imported from Western countries.

4. The Government of the Republic of Sierra Leone thanks the UN Special Rapporteur for his visit to Sierra Leone and appreciates the fruitful discussions and meetings he held with all stakeholders within government, civil society, businesses, UN agencies, and international financial institutions in Sierra Leone. The Government is pleased that it was able to facilitate wide range consultations between the Special Rapporteur and stakeholders in Freetown and the provinces including visits to the cities of Bo, Kono and Makeni and other rural areas including Pujehun town.

5. The Government of the Republic of Sierra Leone warmly welcomes the findings and recommendations of the Special Rapporteur contained in both his initial End of Mission report of 25 August 2017 and this full report, an advance copy of which was made available to the Government of the Republic of Sierra Leone that gave us the opportunity to make these comments.

II. Findings: *acknowledgement of good practice / positive steps*

6. The Government of the Republic of Sierra Leone welcomes the Special Rapporteur's acknowledgement of significant advancements in the promotion of peace, democracy and economic development since the end of the civil war in 2002 and the government's efforts to get the economy back on track after the outbreak of the Ebola Virus Disease in 2014.

7. Overall, the Government of the Republic of Sierra Leone views the Special Rapporteur's report as a true representation of the status of human rights and toxics in Sierra Leone. The Government particularly considers that the report presents a very positive image of Sierra Leone in terms of existing legislation and other framework necessary for the promotion and protection of human rights implicated by toxins and wastes. For example, at **PARAGRAPH 24** of his report, the UNSR wrote: *"that various legal instruments to protect against exposure to hazardous substances and wastes in Sierra Leone were either in the process of being elaborated or under review during his visit. He is*

convinced that addressing gaps in the national legal and policy framework improve human rights protection in the country and encourages authorities to keep the momentum of drafting and adopting corresponding legal standards."

8. The Government of the Republic of Sierra Leone also welcomes the Special Rapporteur's findings in the area of enforcement as Sierra Leone has taken positive steps through the *"establishment of the Legal Aid Board in 2015, for the provision of legal aid services to indigent persons, as well as the National Judicial and Legal Training Institute, to ensure legal education within the justice sector. He recommends that the Government carry out education and information campaigns, together with the Human Rights Commission and the civil society, in order to increase awareness on existing remedies and how to use them...."* - at **PARAGRAPH 46**.

9. Another positive state institution relevant to the protection of human rights is the Environment Protection Agency (EPA) which the Special Rapporteur said its *"...informal role in receiving and addressing people's complaints on matters relating to the environment. He encourages the Agency to create a dedicated complaint desk. While this should not be seen as a substitute for access to judicial proceedings, including appropriate remedies and redress, the establishment of participatory procedures for grievances and related dispute-resolution systems, such as this one, can serve as early warning and prevention mechanisms."*

10. The Government of the Republic of Sierra Leone notes with appreciation the mix findings of positive steps and need for further action in the role of the Freetown City Council in waste management at **PARAGRAPH 74** as follows: *The Freetown City Council has in place a collection system that handles approximately 473.15 tonnes of waste per day, but almost 127 tonnes of waste remain uncollected. Less than 50% of the total waste output of Freetown reaches the two major dumpsites in the capital area: the dumpsite at Granville Brook and the dumpsite at Kingtom. Sierra Leone's waste management framework still presents serious challenges, which if left unaddressed will threaten human rights through exposure to wastes which impact negatively on the health and livelihoods of the people".*

III. Findings: *areas for improvement*

11. The Government of the Republic of Sierra Leone further welcomes the UN Special Rapporteur's observations to make justiciable all the rights protected in the Constitution of Sierra Leone – **PARAGRAPH 23**. The rights contained in the Constitution are fundamental rights and their review remains part of the wider review of the constitutional arrangements of State. The current administration is new in office and will carefully study this finding for future action.

12. The Government of the Republic of Sierra Leone notes the findings of overlap and multiplicity of government agencies in the waste management sector and therefore leading to problem in coordination and compliance **(PARAGRAPHS 32 AND 34)**. This will involve wider government consultation with relevant sectors to address this issue.

13. The Government notes with interest the finding that there is a lack of *"a public laboratory facility for the monitoring of pesticide residues in food, water and the environment, the level of pesticides use in the country has not been fully studied and therefore is highly likely to be under-estimated."* The Government also notes the need for *"Improved capacity in monitoring the use and assessing the impact of chemicals in agriculture and other economic activities"* **(PARAGRAPH 42)**.

14. The UN Special Rapporteur finds that *"Most victims of toxics have no access to justice and no semblance of an effective remedy, while most perpetrators of violations relating to toxics are not held accountable."* **(See PARAGRAPHS 45 – 48, 56)**.

15. The Government of the Republic of Sierra Leone will like to make the following comments in relation to the above. The Government has already put in place measures to ensure that indigenes and those whose rights are affected but have no means to hire a lawyer to enforce and protect those rights, could available themselves with the assistance of the State-funded Legal Aid Board programme. Established under the *Legal Aid Board Act,*

No 6 of 2012 (http://www.sierra-leone.org/Laws/2012-06.pdf), the Legal Aid Board was set up to provide accessible, affordable, credible and sustainable legal aid services to indigent persons. For example, section 20 of this Act makes provisions for indigenes to access legal aid for any civil or criminal matter where this is in the interest of justice. The services provided are legal advice and assistance and legal representation. So, the Legal Aid Board is one scheme (in addition to the services provided by the Human Rights Commission) for those who are the victim of injustice to seek redress.

16. In its response to the draft report, the Supreme Court of Sierra Leone explains that *"...it ought to be made absolutely clear that the Courts cannot refuse or decline jurisdiction to hear any particular complaint irrespective of its relative innocuousness. The fact that the outcome may not be satisfactory to all interested parties is another matter... Presently, there are Magistrates sitting in every District in the country. Some like, Bo District, have at least two at any one time. Recruitment of more Magistrates is being actively considered. As regards the High Court, outside the Western Area, Judges sit in only the main urban centres such as Bo, Kenema, Makeni, Moyamba, Kono, Port Loko...An adequately resourced Judiciary should be in a position to field Judges in all Districts. We are hoping this happens in the very near future."* There is therefore a system that is available for use and with additional support, the system in Sierra Leone will be far better than in other countries for victims to enforce and protect their rights.

17. The UN Special Rapporteur also finds that mine workers' protests were repressed and land dispute led to instances of harassment and victimization which he attributed to the state or agents of the state and concluded that *"This sort of harassment would be incompatible with Sierra Leone's recognized human rights obligations and would also contradict the Government's stated commitments to ensuring economic investments are promoted while paying full attention to the rights of the most vulnerable communities"* **(PARAGRAPHS 51 – 52, 61)**.

18. The Government is of the view that our court system is open and available to all. As recently as January 2018, a community in Northern Sierra Leone was able to make a claim against a mining company with its headquarters in England. Our legal system accommodated and supported the prosecution of that claim with a Judge from England sitting in Freetown to interview victim plaintiffs and obtain evidence. [1]

19. The Government welcomes the Special Rapporteur's findings on other areas of concern include: problems with availability of safe water and sanitation; heavy noise pollution, associated with both blasts and other sources of noise, such as heavy processing plants and machinery in mining and other industrial areas **(PARAGRAPH 62)**; problems with pesticides to human health and the environment **(PARAGRAPH 67)**; water contamination and human health **(PARAGRAPH 70)**; waste management **(PARAGRAPHS 71 AND 76)**; etc.

IV. Conclusion and Recommendations

20. The Government of the Republic of Sierra Leone welcomes the broad range of recommendations contained in the Special Rapporteur's report. The Government has already demonstrated capacity and willingness to address some of the concerns in the report by adopting and enforcing laws and policies related to waste reduction and labour inspection requirements.

21. The Government takes this opportunity to reaffirm its support for the mandate of the Special Rapporteur and looks forwarding to working with the Special Rapporteur and our

[1] Jonathan Ames, *Judge sitting in Sierra Leone makes legal history*, The Times, January 28, 2018, available at https://www.thetimes.co.uk/edition/news/judge-sitting-in-sierra-leone-makes-legal-history-mnp7p290c; Desmond Davies, *Sierra Leone News: UK judge to hold Tonkolili Iron Ore hearing in Freetown"*, Awoko Newspaper, January 30, 2018, available at https://awoko.org/2018/02/05/sierra-leone-news-uk-judge-to-hold-tonkolili-iron-ore-hearing-in-freetown/.

development parents to fully implement the conclusions and recommendations in his report. The Government thanks the Special Rapporteur for his report which the government regards as an invaluable resource and a blueprint to promote and protect all rights and the environmentally sound management of hazardous chemicals and wastes in Sierra Leone.

22. Air pollution, marine pollution, and plastic wastes also deserve the Government's attention to address these concerns too.

23. For the Government of the Republic of Sierra Leone, the Special Rapporteur and his report support our approach that all human rights are cross-cutting, cross-sectoral, and intricately linked to Sierra Leone's development. The Government therefore calls upon all friendly nations and our development partners to engage with the Government of Sierra Leone to full y implement the recommendations contained in this report. The Government will continue to show leadership and commitment in this regard through the coordination work of the Ministry of Foreign Affairs and International Cooperation, the Human Rights Commission and the Environment Protection Agency of Sierra Leone.